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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000484

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TAGS: [PGOV](#) [PREL](#) [IZ](#)

SUBJECT: AFTERMATH OF DE-BA'ATHIFICATION LAW PASSAGE

Classified By: Ambassador Ryan C. Crocker for reasons 1.4 (b) and (d).

¶1. (C) Summary: Although the Law of Accountability and Justice was ratified by the Presidency Council on February 3 and awaits publication in the official gazette, the GoI still has a significant amount to accomplish before the law can be implemented in any meaningful way. VP Hashimi's unrealized threat of a veto focused attention on some of the strict provisions in the law; an intelligent implementation of the law by a well-intentioned commission may minimize much of the damage he envisioned. We are urging the Executive Council to develop regulations that would guide the formation and initial procedures of the commission that the law will establish. End Summary.

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Hashimi's Threat  
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¶2. (C) During the ten days that the Presidency Council considered the Law of Accountability and Justice, VP Hashimi waffled between a veto and a resigned acceptance of the legislation, but never endorsed it. As February 3 approached, his public statements became more critical, eventually claiming he would veto the law. Post urged Hashimi to pass the legislation, warning him of the stalemate that would transpire if the draft were returned to the CoR. Ultimately, Hashimi (and the Presidency Council) neither signed the law, nor vetoed it; per Article 138 of the Iraqi constitution, the law was considered ratified ten days after it was delivered to the Presidency Council. (Note: This is one of few clear cut examples where a law has been ratified by the Presidency Council through inaction and for Hashimi at least the inaction is a signal of Presidency Council reservations.)

¶3. (C) According to Rashid al-Izzawi (IIP), the Deputy Chairman of the CoR de-Ba'athification committee, the largest of Hashimi's concerns was answering to his Sunni constituency for the estimated 7000 employees of the security agencies (General Security, the Intelligence Service, Special Service, Special Protection, National Security, Military Security, Military Intelligence, and Saddam's Fedayeen) that could be fired. This number was first cited by Ahmed Chalabi, but has never been corroborated and is assumed by Hashimi and his supporters to be a target-list of Senior Sunni officials. Hashimi's other major concern, according to Izzawi, was the lack of a role for the Presidency Council in approving exemptions; understandably, this concern was shared by President Talabani and VP Abd al-Mehdi.

¶4. (C) Izzawi indicated that Hashimi was also concerned with the law's consistent labeling of the security agencies as "repressive" or "dictatorial." As well, the VP worried about the clauses that forced the commission to publish all the names and ranks of those dismissed by the law and the provision that excludes some Ba'athists from working within the presidential commissions and the Ministries of Finance and Foreign Affairs.

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Hashimi's Plan for Reform  
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15. (C) On February 6, the Legal Advisor to VP Hashimi, Munif Hawas al-Falaj, confirmed that the Presidency Council would submit formal amendments to the law. The amendments reflect Hashimi's concerns: exempt those in the security apparatus from termination if they helped establish the new and current security apparatus; allow people to serve in the Ministries of Finance, Foreign Affairs, presidential commissions, and the judicial council; grant the Presidency Council the power to approve reinstatement exemptions, instead of the CoR; and, eliminate the publication of names of former members affected by the law.

16. (C) According to al-Falaj, the amendments could be pushed through the CoR quickly enough to avoid any implementation issues. When asked how long it would require, he said that he would only need three or four months. He argued that nothing with the commission could occur until the commissioners were named, and so amendments could come any time before that happened. The 60-day window to apply for pensions or reinstatement was not a pressing concern for the VP.

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Comment  
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17. (C) With the law now ratified, the remainder of the work is in its implementation. In many places, the law is vague about processes and the rights of those within its scope.

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Implementing regulations -- that do not contradict the law and which remain within the intent of the law -- could clear up much of the ambiguity. Additionally, Hashimi's concerns could be partially alleviated with such implementing regulations. In particular, Post is urging the Executive Council immediately to compile a slate of well-known and non-partisan candidates for the position of Commissioner for submission to the Council of Ministers. (Comment: We have heard rumors that Mahmoud Othman (Independent) is one potential candidate whose name is being circulated around the CoR. End Comment.) We are also encouraging the GoI to clearly define the vague process of obtaining a pension, including the reemployment and retirement rights and pension rights of those who receive de-Ba'athification orders after the initial 60-day and 90-day windows.  
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